

## HOUSE BILL NO. 594

INTRODUCED BY R. KOOPMAN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN  
5 AMENDMENT TO ARTICLE II, SECTION 29, OF THE MONTANA CONSTITUTION REQUIRING JUST  
6 COMPENSATION TO A PRIVATE PROPERTY OWNER FOR A REDUCTION IN THE MARKET VALUE OF  
7 PROPERTY BECAUSE OF THE ENACTMENT OR ENFORCEMENT OF A LAND USE REGULATION;  
8 PROVIDING FOR WAIVER OF ENFORCEMENT OF A LAND USE REGULATION THAT DOES NOT PROVIDE  
9 COMPENSATION; AND DEFINING "JUST COMPENSATION" AND "LAND USE REGULATION"."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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13 **Section 1.** Article II, section 29, of The Constitution of the State of Montana is amended to read:  
14 **"Section 29. Eminent domain -- reduction in value.** (1) Private property shall not be taken or  
15 damaged for public use without just compensation to the full extent of the loss having been first made to or paid  
16 into court for the owner. In the event of litigation, just compensation shall include necessary expenses of litigation  
17 to be awarded by the court when the private property owner prevails.

18 (2) An owner of private property is entitled to just compensation, as provided by law, for the enactment  
19 or enforcement of a land use regulation that has the effect of reducing the value of private property. A land use  
20 regulation that has the effect of reducing property value is void unless it provides for full compensation for  
21 property value lost or provides for a waiver of enforcement.

22 (3) As used in subsection (2):

23 (a) "just compensation" means the amount of reduction in the fair market value of the affected property  
24 interest resulting from the enactment or enforcement of the land use regulation as of the date on which the  
25 property owner makes a written demand for compensation; and

26 (b) "land use regulation" means a law, ordinance, or resolution regulating the use of privately owned  
27 real property or any interest in real property, including but not limited to comprehensive growth plans, zoning  
28 regulations, and subdivision regulations. The term does not include restricting or prohibiting public nuisances  
29 or activities for the protection of public health and safety, such as fire codes, building codes, health and  
30 sanitation regulations, solid or hazardous waste regulations, or pollution control regulations, unless a compelling

1 state interest can be shown."

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3 NEW SECTION. Section 2. Submission to electorate. This amendment shall be submitted to the  
4 qualified electors of Montana at the general election to be held in November 2006 by printing on the ballot the  
5 full title of this act and the following:

6  FOR requiring just compensation to private property owners for a reduction in value because  
7 of a land use regulation.

8  AGAINST requiring just compensation to private property owners for a reduction in value  
9 because of a land use regulation.

10 - END -